

Office of the Secretary, HUD

§ 30.50

the National Housing Act, or a provider of assistance to the borrower in connection with any such mortgage or loan, including:

- (1) Sellers;
- (2) Borrowers;
- (3) Closing agents;
- (4) Title companies;
- (5) Real estate agents;
- (6) Mortgage brokers;
- (7) Appraisers;
- (8) Loan correspondents;
- (9) Dealers;
- (10) Consultants;
- (11) Contractors;
- (12) Subcontractors; and
- (13) Inspectors.

(b) *Knowing and material violations.*

The Assistant Secretary for Housing-Federal Housing Commissioner or his/her designee may impose a civil penalty on any person or entity identified in paragraph (a) of this section who knowingly and materially:

(1) Submits false information to the Secretary in connection with any mortgage insured under the National Housing Act (12 U.S.C. 1701 *et seq.*), or any loan that is covered by a contract of insurance under title I of the National Housing Act;

(2) Falsely certifies to the Secretary or submits a false certification by another person or entity to the Secretary in connection with any mortgage insured under the National Housing Act or any loan that is covered by a contract of insurance under title I of the National Housing Act; or

(3) Is a loan dealer or correspondent and fails to submit to the Secretary information which is required by regulations or directives in connection with any loan that is covered by a contract of insurance under title I of the National Housing Act.

(c) *Amount of penalty.* The maximum penalty is \$5,500 for each violation, up to a limit of \$1,100,000 for all violations committed during any one-year period. Each violation shall constitute a separate violation as to each mortgage or loan application.

[65 FR 9087, Feb. 23, 2000]

§ 30.40 Loan guarantees for Indian housing.

(a) *General.* The Assistant Secretary for Public and Indian Housing (or his/

her designee) may initiate a civil money penalty action against any mortgagee or holder of a guarantee certificate who knowingly and materially violates the provisions of 12 U.S.C. 1715z-13a(g)(2) concerning loan guarantees for Indian housing.

(b) *Continuing violation.* Each day that a violation continues shall constitute a separate violation.

(c) *Amount of penalty.* The maximum penalty is \$5,000 for each violation, up to a limit of \$1,100,000 for all violations committed during any one-year period. Each violation shall constitute a separate violation as to each mortgage or loan application.

[61 FR 50215, Sept. 24, 1996, as amended at 65 FR 9087, Feb. 23, 2000]

§ 30.45 Multifamily and Section 202 mortgagors.

(a) *General.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against any mortgagor of property that includes five or more living units and is subject to a mortgage insured, coin-sured, or held by the Secretary, who knowingly and materially commits a violation listed at 12 U.S.C. 1735f-15 (b) or (c), or 12 U.S.C. 1701q-1 (b) or (c).

(b) *Maximum penalty.* The maximum penalty for each violation of 12 U.S.C. 1735f-15(b) and 12 U.S.C. 1701q-1(b) is the amount of loss that the Secretary incurs at a foreclosure sale, or a sale after foreclosure, with respect to the property involved. The maximum penalty for each violation of 12 U.S.C. 1735f-15(c) and 12 U.S.C. 1701q-1(c) is \$27,500.

§ 30.50 GNMA issuers and custodians.

(a) *General.* The President of GNMA, or his or her designee, may initiate a civil money penalty action against a GNMA issuer or custodian that knowingly and materially violates any provision of 12 U.S.C. 1723i(b), title III of the National Housing Act, or any implementing regulation, handbook, guaranty agreement, or contractual agreement, or participant letter issued by GNMA, or fails to comply with the terms of a settlement agreement with GNMA.

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(b) *Continuing violation.* Each day that a violation continues shall constitute a separate violation.

(c) *Amount of penalty.* The maximum penalty is \$5,500 for each violation, up to a limit of \$1,100,000 during any one-year period. Each violation shall constitute a separate violation with respect to each pool of mortgages.

§ 30.55 Interstate Land Sales violations.

(a) *General.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against any person who knowingly and materially violates any provision of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.); the rules and regulations set forth at 24 CFR parts 1710, 1715, and 1720; or any order issued thereunder.

(b) *Continuing violation.* Each day that a violation continues shall constitute a separate violation.

(c) *Maximum penalty.* The maximum penalty is \$1,100 for each violation, up to a limit for any particular person of \$1,100,000 during any one-year period. Each violation shall constitute a separate violation as to each sale or lease or offer to sell or lease.

§ 30.60 Dealers or loan correspondents.

(a) *General.* The Assistant Secretary for Housing-Federal Housing Commissioner, or his or her designee, may initiate a civil money penalty action against any dealer or loan correspondent who violates section 2(b)(7) of the National Housing Act (12 U.S.C. 1703). Such violations include, but are not limited to:

(1) Falsifying information on an application for dealer approval or re-approval submitted to a lender;

(2) Falsifying statements on a HUD credit application, improvement contract, note, security instrument, completion certificate, or other loan document;

(3) Failing to sign a credit application if the dealer or loan correspondent assisted the borrower in completing the application;

(4) Falsely certifying to a lender that the loan proceeds have been or will be spent on eligible improvements;

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(5) Falsely certifying to a lender that the property improvements have been completed;

(6) Falsely certifying that a borrower has not been given or promised any cash payment, rebate, cash bonus, or anything of more than nominal value as an inducement to enter into a loan transaction;

(7) Making a false representation to a lender with respect to the creditworthiness of a borrower or the eligibility of the improvements for which a loan is sought.

(b) *Continuing violation.* Each day that a violation continues shall constitute a separate violation.

(c) *Amount of penalty.* The maximum penalty is \$5,500 for each violation, up to a limit for any particular person of \$1,100,000 during any one-year period.

§ 30.65 Failure to disclose lead-based paint hazards.

(a) *General.* The Director of the Office of Lead Hazard Control, or his or her designee, may initiate a civil money penalty action against any person who knowingly violates 42 U.S.C. 4852d(b)(1).

(b) *Amount of penalty.* The maximum penalty is \$11,000 for each violation.

Subpart C—Procedures

§ 30.70 Prepenalty notice.

Whenever HUD intends to seek a civil money penalty, the official designated in subpart B of this part, or his or her designee (or the chairperson of the Mortgagee Review Board, or his or her designee, in actions under § 30.35), shall issue a written notice to the respondent. This prepenalty notice shall include the following:

(a) That HUD is considering seeking a civil money penalty;

(b) The specific violations alleged;

(c) The maximum civil money penalty that may be imposed;

(d) The opportunity to reply in writing to the designated program official within 30 days after receipt of the notice; and

(e) That failure to respond within the 30-day period may result in issuance of a complaint under § 30.85 without consideration of any information that the respondent may wish to provide.